

**BEFORE THE  
BOARD OF REGISTERED NURSING  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

Case No. 2006-264

CYNTHIA ELAINE SMITH ENGLEHARDT  
12619 Cabezon Place  
San Diego, CA 92129

Registered Nursing License No. 419895

Respondent.

**DECISION AND ORDER**

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Board of Registered Nursing, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective on April 21, 2008.

It is so ORDERED March 20, 2008.

*LaTranene W Tate*

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FOR THE BOARD OF REGISTERED NURSING  
DEPARTMENT OF CONSUMER AFFAIRS

1 EDMUND G. BROWN JR., Attorney General  
of the State of California  
2 LINDA K. SCHNEIDER, State Bar No. 101336  
Supervising Deputy Attorney General  
3 BLANCA I. LOPEZ,  
Senior Legal Analyst  
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5 California Department of Justice  
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9 Attorneys for Complainant

10 **BEFORE THE**  
11 **BOARD OF REGISTERED NURSING**  
12 **DEPARTMENT OF CONSUMER AFFAIRS**  
**STATE OF CALIFORNIA**

13 In the Matter of the Accusation Against:

Case No. 2006-264

14 CYNTHIA ELAINE SMITH ENGLEHARDT  
12619 Cabezon Place  
15 San Diego, CA 92129

**STIPULATED SETTLEMENT AND  
DISCIPLINARY ORDER**

16 Registered Nursing License No. 419895

17 Respondent.  
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19 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the  
20 above-entitled proceedings that the following matters are true:

21 PARTIES

22 1. Ruth Ann Terry, M.P.H., R.N. (Complainant) is the Executive Officer of  
23 the Board of Registered Nursing. She brought this action solely in her official capacity and is  
24 represented in this matter by Edmund G. Brown Jr., Attorney General of the State of California,  
25 by Linda K. Schneider, Supervising Deputy Attorney General, and by Blanca I. Lopez, Senior  
26 Legal Analyst.

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2. Respondent Cynthia Elaine Smith Englehardt (Respondent) is represented in this proceeding by attorney David D. Ribeiro, Esq., whose address is 16215 East Whittier Blvd., Whittier, CA 90603.

3. On or about October 31, 1987, the Board of Registered Nursing issued License No. 419895 to Cynthia Elaine Smith Englehardt (Respondent). The registered nursing license was in full force and effect at all times relevant to the charges brought in Accusation No. 2006-264 and will expire on July 31, 2007, unless renewed.

## JURISDICTION

4. Accusation No. 2006-264 was filed before the Board of Registered Nursing (Board), Department of Consumer Affairs, and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on June 26, 2006. Respondent timely filed her Notice of Defense contesting the Accusation. A copy of Accusation No. 2006-264 is attached as exhibit A and incorporated herein by reference.

## ADVISEMENT AND WAIVERS

5. Respondent has carefully read, discussed with counsel, and fully understands the charges and allegations in Accusation No. 2006-264. Respondent has also carefully read, discussed with counsel, and fully understands the effects of this Stipulated Settlement and Disciplinary Order.

6. Respondent is fully aware of her legal rights in this matter, including the right to a hearing on the charges and allegations in the Accusation; the right to confront and cross-examine the witnesses against her; the right to present evidence and to testify on her own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

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CULPABILITY

7. Respondent admits the truth of each and every charge and allegation in Accusation No. 2006-264.

8. Respondent agrees that her Registered Nursing License is subject to discipline and she agrees to be bound by the Board's imposition of discipline as set forth in the Disciplinary Order below.

CONTINGENCY

9. This stipulation shall be subject to approval by the Board of Registered Nursing. Respondent understands and agrees that counsel for Complainant and the staff of the Board of Registered Nursing may communicate directly with the Board regarding this stipulation and settlement, without notice to or participation by Respondent or her counsel. By signing the stipulation, Respondent understands and agrees that she may not withdraw her agreement or seek to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary Order shall be of no force or effect, except for this paragraph; it shall be inadmissible in any legal action between the parties, and the Board shall not be disqualified from further action by having considered this matter.

OTHER MATTERS

10. The parties understand and agree that facsimile copies of this Stipulated Settlement and Disciplinary Order, including facsimile signatures thereto, shall have the same force and effect as the originals.

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1                   Upon successful completion of probation, Respondent's license shall be fully  
2 restored.

3                   **3. Report in Person.** Respondent, during the period of probation, shall  
4 appear in person at interviews/meetings as directed by the Board or its designated  
5 representatives.

6                   **4. Residency, Practice, or Licensure Outside of State.** Periods of  
7 residency or practice as a registered nurse outside of California shall not apply toward a reduction  
8 of this probation time period. Respondent's probation is tolled, if and when she resides outside  
9 of California. Respondent must provide written notice to the Board within 15 days of any change  
10 of residency or practice outside the state, and within 30 days prior to re-establishing residency or  
11 returning to practice in this state.

12                   Respondent shall provide a list of all states and territories where she has ever been  
13 licensed as a registered nurse, vocational nurse, or practical nurse. Respondent shall further  
14 provide information regarding the status of each license and any changes in such license status  
15 during the term of probation. Respondent shall inform the Board if she applies for or obtains a  
16 new nursing license during the term of probation.

17                   **5. Submit Written Reports.** Respondent, during the period of probation,  
18 shall submit or cause to be submitted such written reports/declarations and verification of actions  
19 under penalty of perjury, as required by the Board. These reports/declarations shall contain  
20 statements relative to Respondent's compliance with all the conditions of the Board's Probation  
21 Program. Respondent shall immediately execute all release of information forms as may be  
22 required by the Board or its representatives.

23                   Respondent shall provide a copy of this Decision to the nursing regulatory agency  
24 in every state and territory in which she has a registered nurse license.

25                   **6. Function as a Registered Nurse.** Respondent, during the period of  
26 probation, shall engage in the practice of registered nursing in California for a minimum of 24  
27 hours per week for 6 consecutive months or as determined by the Board.

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1 For purposes of compliance with the section, "engage in the practice of registered  
2 nursing" may include, when approved by the Board, volunteer work as a registered nurse, or  
3 work in any non-direct patient care position that requires licensure as a registered nurse.

4 The Board may require that advanced practice nurses engage in advanced practice  
5 nursing for a minimum of 24 hours per week for 6 consecutive months or as determined by the  
6 Board.

7 If Respondent has not complied with this condition during the probationary term,  
8 and Respondent has presented sufficient documentation of her good faith efforts to comply with  
9 this condition, and if no other conditions have been violated, the Board, in its discretion, may  
10 grant an extension of Respondent's probation period up to one year without further hearing in  
11 order to comply with this condition. During the one year extension, all original conditions of  
12 probation shall apply.

13 **7. Employment Approval and Reporting Requirements.** Respondent  
14 shall obtain prior approval from the Board before commencing or continuing any employment,  
15 paid or voluntary, as a registered nurse. Respondent shall cause to be submitted to the Board all  
16 performance evaluations and other employment related reports as a registered nurse upon request  
17 of the Board.

18 Respondent shall provide a copy of this Decision to her employer and immediate  
19 supervisors prior to commencement of any nursing or other health care related employment.

20 In addition to the above, Respondent shall notify the Board in writing within  
21 seventy-two (72) hours after she obtains any nursing or other health care related employment.  
22 Respondent shall notify the Board in writing within seventy-two (72) hours after she is  
23 terminated or separated, regardless of cause, from any nursing, or other health care related  
24 employment with a full explanation of the circumstances surrounding the termination or  
25 separation.

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1                   8.     **Supervision.** Respondent shall obtain prior approval from the Board  
2 regarding Respondent's level of supervision and/or collaboration before commencing or  
3 continuing any employment as a registered nurse, or education and training that includes patient  
4 care.

5                   Respondent shall practice only under the direct supervision of a registered nurse  
6 in good standing (no current discipline) with the Board of Registered Nursing, unless alternative  
7 methods of supervision and/or collaboration (e.g., with an advanced practice nurse or physician)  
8 are approved.

9                   Respondent's level of supervision and/or collaboration may include, but is not  
10 limited to the following:

11                   (a)   Maximum - The individual providing supervision and/or collaboration is  
12 present in the patient care area or in any other work setting at all times.

13                   (b)   Moderate - The individual providing supervision and/or collaboration is in  
14 the patient care unit or in any other work setting at least half the hours Respondent works.

15                   (c)   Minimum - The individual providing supervision and/or collaboration has  
16 person-to-person communication with Respondent at least twice during each shift worked.

17                   (d)   Home Health Care - If Respondent is approved to work in the home health  
18 care setting, the individual providing supervision and/or collaboration shall have person-to-  
19 person communication with Respondent as required by the Board each work day. Respondent  
20 shall maintain telephone or other telecommunication contact with the individual providing  
21 supervision and/or collaboration as required by the Board during each work day. The individual  
22 providing supervision and/or collaboration shall conduct, as required by the Board, periodic, on-  
23 site visits to patients' homes visited by Respondent with or without Respondent present.

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1                   9.     **Employment Limitations.** Respondent shall not work for a nurse's  
2 registry, in any private duty position as a registered nurse, a temporary nurse placement agency, a  
3 traveling nurse, or for an in-house nursing pool.

4                   Respondent shall not work for a licensed home health agency as a visiting nurse  
5 unless the registered nursing supervision and other protections for home visits have been  
6 approved by the Board. Respondent shall not work in any other registered nursing occupation  
7 where home visits are required.

8                   Respondent shall not work in any health care setting as a supervisor of registered  
9 nurses. The Board may additionally restrict Respondent from supervising licensed vocational  
10 nurses and/or unlicensed assistive personnel on a case-by-case basis.

11                  Respondent may continue to work in her current employment as a *Lead Instructor*  
12 at Maric College performing the following duties: Administrative duties in which assignments  
13 are delegated to others, preparation of rooms for lectures, organization of test papers for  
14 distribution, checking email to trouble-shoot administrative problems, supervising explanations  
15 for absences, making administrative telephone calls, preparing schedules for lectures, verifying  
16 and acquiring room availability, and other administrative tasks. Student contact is minimal with  
17 most job duties being administrative

18                  Respondent shall not have independent access to medications or narcotics.  
19 Respondent shall not commence any other work as a faculty member in a school of nursing or as  
20 an instructor in a continuing education program.

21                  Respondent shall work only on a regularly assigned, identified and predetermined  
22 worksite(s) and shall not work in a float capacity.

23                  If Respondent is working or intends to work in excess of 40 hours per week, the  
24 Board may request documentation to determine whether there should be restrictions on the hours  
25 of work.

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1                   10.     **Complete a Nursing Course(s).** Respondent, at her own expense, shall  
2 enroll and successfully complete a course(s) relevant to the practice of registered nursing no later  
3 than six months prior to the end of her probationary term.

4                   Respondent shall obtain prior approval from the Board before enrolling in the  
5 course(s). Respondent shall submit to the Board the original transcripts or certificates of  
6 completion for the above required course(s). The Board shall return the original documents to  
7 Respondent after photocopying them for its records.

8                   11.     **Cost Recovery.** Respondent shall pay to the Board costs associated with  
9 its investigation and enforcement pursuant to Business and Professions Code section 125.3 in the  
10 amount of \$2,075.00 (Two Thousand Seventy Five Dollars). Respondent shall be permitted to  
11 pay these costs in a payment plan approved by the Board, with payments to be completed no later  
12 than three months prior to the end of the probation term.

13                   If Respondent has not complied with this condition during the probationary term,  
14 and Respondent has presented sufficient documentation of her good faith efforts to comply with  
15 this condition, and if no other conditions have been violated, the Board, in its discretion, may  
16 grant an extension of Respondent's probation period up to one year without further hearing in  
17 order to comply with this condition. During the one year extension, all original conditions of  
18 probation will apply.

19                   12.     **Violation of Probation.** If Respondent violates the conditions of her  
20 probation, the Board after giving Respondent notice and an opportunity to be heard, may set  
21 aside the stay order and impose the stayed discipline (revocation/suspension) of Respondent's  
22 license.

23                   If during the period of probation, an accusation or petition to revoke probation has  
24 been filed against Respondent's license or the Attorney General's Office has been requested to  
25 prepare an accusation or petition to revoke probation against Respondent's license, the  
26 probationary period shall automatically be extended and shall not expire until the accusation or  
27 petition has been acted upon by the Board.

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1                   13.     **License Surrender.** During Respondent's term of probation, if she ceases  
2 practicing due to retirement, health reasons or is otherwise unable to satisfy the conditions of  
3 probation, Respondent may surrender her license to the Board. The Board reserves the right to  
4 evaluate Respondent's request and to exercise its discretion whether to grant the request, or to  
5 take any other action deemed appropriate and reasonable under the circumstances, without  
6 further hearing. Upon formal acceptance of the tendered license and wall certificate, Respondent  
7 will no longer be subject to the conditions of probation.

8                   Surrender of Respondent's license shall be considered a disciplinary action and  
9 shall become a part of Respondent's license history with the Board. A registered nurse whose  
10 license has been surrendered may petition the Board for reinstatement no sooner than the  
11 following minimum periods from the effective date of the disciplinary decision:

12                   (1)     Two years for reinstatement of a license that was surrendered for any  
13 reason other than a mental or physical illness; or

14                   (2)     One year for a license surrendered for a mental or physical illness.

15                   14.     **Physical Examination.** Within 45 days of the effective date of this  
16 Decision, Respondent, at her expense, shall have a licensed physician, nurse practitioner, or  
17 physician assistant, who is approved by the Board before the assessment is performed, submit an  
18 assessment of the Respondent's physical condition and capability to perform the duties of a  
19 registered nurse. Such an assessment shall be submitted in a format acceptable to the Board. If  
20 medically determined, a recommended treatment program will be instituted and followed by the  
21 Respondent with the physician, nurse practitioner, or physician assistant providing written  
22 reports to the Board on forms provided by the Board.

23                   If Respondent is determined to be unable to practice safely as a registered nurse,  
24 the licensed physician, nurse practitioner, or physician assistant making this determination shall  
25 immediately notify the Board and Respondent by telephone, and the Board shall request that the  
26 Attorney General's office prepare an accusation or petition to revoke probation. Respondent  
27 shall immediately cease practice and shall not resume practice until notified by the Board.  
28 During this period of suspension, Respondent shall not engage in any practice for which a license

1 issued by the Board is required until the Board has notified Respondent that a medical  
2 determination permits Respondent to resume practice. This period of suspension will not apply  
3 to the reduction of this probationary time period.

4           If Respondent fails to have the above assessment submitted to the Board within  
5 the 45-day requirement, Respondent shall immediately cease practice and shall not resume  
6 practice until notified by the Board. This period of suspension will not apply to the reduction of  
7 this probationary time period. The Board may waive or postpone this suspension only if  
8 significant, documented evidence of mitigation is provided. Such evidence must establish good  
9 faith efforts by Respondent to obtain the assessment, and a specific date for compliance must be  
10 provided. Only one such waiver or extension may be permitted.

11           **15. Participate in Treatment/Rehabilitation Program for Chemical**  
12 **Dependence.** Respondent, at her expense, shall successfully complete during the probationary  
13 period or shall have successfully completed prior to commencement of probation a Board-  
14 approved treatment/rehabilitation program of at least six months duration. As required, reports  
15 shall be submitted by the program on forms provided by the Board. If Respondent has not  
16 completed a Board-approved treatment/rehabilitation program prior to commencement of  
17 probation, Respondent, within 45 days from the effective date of the decision, shall be enrolled in  
18 a program. If a program is not successfully completed within the first nine months of probation,  
19 the Board shall consider Respondent in violation of probation.

20           Based on Board recommendation, each week Respondent shall be required to  
21 attend at least one, but no more than five 12-step recovery meetings or equivalent (e.g., Narcotics  
22 Anonymous, Alcoholics Anonymous, etc.) and a nurse support group as approved and directed  
23 by the Board. If a nurse support group is not available, an additional 12-step meeting or  
24 equivalent shall be added. Respondent shall submit dated and signed documentation confirming  
25 such attendance to the Board during the entire period of probation. Respondent shall continue  
26 with the recovery plan recommended by the treatment/rehabilitation program or a licensed  
27 mental health examiner and/or other ongoing recovery groups.

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1                   16.     **Abstain from Use of Psychotropic (Mood-Altering) Drugs.** Respondent  
2 shall completely abstain from the possession, injection or consumption by any route of all  
3 controlled substances and all psychotropic (mood altering) drugs, including alcohol, except when  
4 the same are ordered by a health care professional legally authorized to do so as part of  
5 documented medical treatment. Respondent shall have sent to the Board, in writing and within  
6 fourteen (14) days, by the prescribing health professional, a report identifying the medication,  
7 dosage, the date the medication was prescribed, the Respondent's prognosis, the date the  
8 medication will no longer be required, and the effect on the recovery plan, if appropriate.

9                   Respondent shall identify for the Board a single physician, nurse practitioner or  
10 physician assistant who shall be aware of Respondent's history of substance abuse and will  
11 coordinate and monitor any prescriptions for Respondent for dangerous drugs, controlled  
12 substances or mood-altering drugs. The coordinating physician, nurse practitioner, or physician  
13 assistant shall report to the Board on a quarterly basis Respondent's compliance with this  
14 condition. If any substances considered addictive have been prescribed, the report shall identify a  
15 program for the time limited use of any such substances.

16                  The Board may require the single coordinating physician, nurse practitioner, or  
17 physician assistant to be a specialist in addictive medicine, or to consult with a specialist in  
18 addictive medicine.

19                   17.     **Submit to Tests and Samples.** Respondent, at her expense, shall  
20 participate in a random, biological fluid testing or a drug screening program which the Board  
21 approves. The length of time and frequency will be subject to approval by the Board.  
22 Respondent is responsible for keeping the Board informed of Respondent's current telephone  
23 number at all times. Respondent shall also ensure that messages may be left at the telephone  
24 number when she is not available and ensure that reports are submitted directly by the testing  
25 agency to the Board, as directed. Any confirmed positive finding shall be reported immediately  
26 to the Board by the program and Respondent shall be considered in violation of probation.

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1 In addition, Respondent, at any time during the period of probation, shall fully  
2 cooperate with the Board or any of its representatives, and shall, when requested, submit to such  
3 tests and samples as the Board or its representatives may require for the detection of alcohol,  
4 narcotics, hypnotics, dangerous drugs, or other controlled substances.

5 If Respondent has a positive drug screen for any substance not legally authorized  
6 and not reported to the coordinating physician, nurse practitioner, or physician assistant, and the  
7 Board files a petition to revoke probation or an accusation, the Board may suspend Respondent  
8 from practice pending the final decision on the petition to revoke probation or the accusation.  
9 This period of suspension will not apply to the reduction of this probationary time period.

10 If Respondent fails to participate in a random, biological fluid testing or drug  
11 screening program within the specified time frame, Respondent shall immediately cease practice  
12 and shall not resume practice until notified by the Board. After taking into account documented  
13 evidence of mitigation, if the Board files a petition to revoke probation or an accusation, the  
14 Board may suspend Respondent from practice pending the final decision on the petition to  
15 revoke probation or the accusation. This period of suspension will not apply to the reduction of  
16 this probationary time period.

17 18. **Mental Health Examination.** Respondent shall, within 45 days of the  
18 effective date of this Decision, have a mental health examination including psychological testing  
19 as appropriate to determine her capability to perform the duties of a registered nurse. The  
20 examination will be performed by a psychiatrist, psychologist or other licensed mental health  
21 practitioner approved by the Board. The examining mental health practitioner will submit a  
22 written report of that assessment and recommendations to the Board. All costs are the  
23 responsibility of Respondent. Recommendations for treatment, therapy or counseling made as a  
24 result of the mental health examination will be instituted and followed by Respondent.

25 If Respondent is determined to be unable to practice safely as a registered nurse,  
26 the licensed mental health care practitioner making this determination shall immediately notify  
27 the Board and Respondent by telephone, and the Board shall request that the Attorney General's  
28 office prepare an accusation or petition to revoke probation. Respondent shall immediately cease

1 practice and may not resume practice until notified by the Board. During this period of  
2 suspension, Respondent shall not engage in any practice for which a license issued by the Board  
3 is required, until the Board has notified Respondent that a mental health determination permits  
4 Respondent to resume practice. This period of suspension will not apply to the reduction of this  
5 probationary time period.

6           If Respondent fails to have the above assessment submitted to the Board within  
7 the 45-day requirement, Respondent shall immediately cease practice and shall not resume  
8 practice until notified by the Board. This period of suspension will not apply to the reduction of  
9 this probationary time period. The Board may waive or postpone this suspension only if  
10 significant, documented evidence of mitigation is provided. Such evidence must establish good  
11 faith efforts by Respondent to obtain the assessment, and a specific date for compliance must be  
12 provided. Only one such waiver or extension may be permitted.

13           **19. Therapy or Counseling Program.** Respondent, at her expense, shall  
14 participate in an on-going counseling program until such time as the Board releases her from this  
15 requirement and only upon the recommendation of the counselor. Written progress reports from  
16 the counselor will be required at various intervals.

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ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, David D. Ribeiro, Esq. I understand the stipulation and the effect it will have on my Registered Nursing License. I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Board of Registered Nursing.

DATED: 12/19/07

  
CYNTHIA ELAINE SMITH ENGLEHARDT  
Respondent

I have read and fully discussed with Respondent Cynthia Elaine Smith Englehardt the terms and conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve its form and content.

DATED: 12/26/07

  
DAVID D. RIBEIRO, ESQ.  
Attorney for Respondent



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ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Board of Registered Nursing of the Department of Consumer Affairs.

DATED: January 8, 2008

EDMUND G. BROWN JR., Attorney General  
of the State of California

LINDA K. SCHNEIDER,  
Supervising Deputy Attorney General

  
BLANCA I. LOPEZ  
Senior Legal Analyst

Attorneys for Complainant

DOJ Matter ID: SD2005701040  
80127179.wpd

**Exhibit A**  
**Accusation No. 2006-264**

1 BILL LOCKYER, Attorney General  
of the State of California  
2 MARGARET A. LAFKO, State Bar No. 105921  
Supervising Deputy Attorney General

3 Attorneys for Complainant

4 BLANCA I. LOPEZ,  
5 Senior Legal Analyst  
California Department of Justice  
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9 Facsimile: (619) 645-2061

10  
11 **BEFORE THE**  
**BOARD OF REGISTERED NURSING**  
12 **DEPARTMENT OF CONSUMER AFFAIRS**  
**STATE OF CALIFORNIA**

13 In the Matter of the Accusation Against:

Case No. 2006-264

14 CYNTHIA ELAINE SMITH ENGLEHARDT, RN  
15 12619 Cabezon Place  
San Diego, CA 92129

**A C C U S A T I O N**

16 Registered Nursing License No. 419895

17 Respondent.

18  
19 Complainant alleges:

20 PARTIES

21 1. Ruth Ann Terry, M.P.H., R.N. (Complainant) brings this Accusation  
22 solely in her official capacity as the Executive Officer of the Board of Registered Nursing,  
23 Department of Consumer Affairs.

24 2. On or about October 31, 1987, the Board of Registered Nursing issued  
25 Registered Nursing License No. 419895 to Cynthia Elaine Smith Englehardt (Respondent). Said  
26 license was in full force and effect at all times relevant to the charges brought herein and will  
27 expire on July 31, 2007, unless renewed.

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JURISDICTION

3. This Accusation is brought before the Board of Registered Nursing (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

4. Section 2750 states, in pertinent part:

"Every certificate holder or licensee, including licensees holding temporary licenses, or licensees holding licenses placed in an inactive status, may be disciplined as provided in this article [article 3, commencing with section 2750]. As used in this article, 'license' includes certificate, registration, or any other authorization to engage in the practice regulated by this chapter [chapter 6, commencing with section 2700]."

5. Section 2764 states:

"The lapsing or suspension of a license by operation of law or by order or decision of the board or a court of law, or the voluntary suspension of a license by a licentiate shall not deprive the board of jurisdiction to proceed with any investigation of or disciplinary proceeding against such license, or to render a decision suspending or revoking such license."

6. Section 2811, subdivision (b), provides in pertinent part, that each license not renewed in accordance with that section shall expire, but may within a period of eight years thereafter be reinstated.

7. Section 2761 states:

"The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

"(a) Unprofessional conduct, which includes, but is not limited to, the following:

". . . .

"(d) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violating of, or conspiring to violate any provision or term of this chapter [chapter 6, commencing with section 2700] or regulations adopted pursuant to it.

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1           "(f) Conviction of a felony or of any offense substantially related to the  
2 qualifications, functions, and duties of a registered nurse, in which event the record of the  
3 conviction shall be conclusive evidence thereof."

4           8.     Section 490 states:

5           "A board may suspend or revoke a license on the ground that the licensee has been  
6 convicted of a crime, if the crime is substantially related to the qualifications, functions, or duties  
7 of the business or profession for which the license was issued. A conviction within the meaning  
8 of this section means a plea or verdict of guilty or a conviction following a plea of nolo  
9 contendere. Any action which a board is permitted to take following the establishment of a  
10 conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has  
11 been affirmed on appeal, or when an order granting probation is made suspending the imposition  
12 of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the  
13 Penal Code."

14           9.     California Code of Regulations, title 16, section 1444, states:

15           "A conviction or act shall be considered to be substantially related to the  
16 qualifications, functions or duties of a registered nurse if to a substantial degree it evidences the  
17 present or potential unfitness of a registered nurse to practice in a manner consistent with the  
18 public health, safety, or welfare.

19           10.    Section 125.3, subdivision (a), states, in pertinent part:

20           "Except as otherwise provided by law, in any order issued in resolution of a  
21 disciplinary proceeding before any board within the department . . . the board may request the  
22 administrative law judge to direct a licentiate found to have committed a violation or violations  
23 of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and  
24 enforcement of the case."

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1 FIRST CAUSE FOR DISCIPLINE

2 (Conviction - May 8, 2002)  
3 (Attempt to Obtain Controlled Substance by Fraud, Deceit, Misrepresentation or Subterfuge)

4 11. Respondent is subject to disciplinary action under section 2761,  
5 subdivision (f) and 490, in conjunction with California Code of Regulations, title 16, section  
6 1444, in that Respondent was convicted of a crime, which is substantially related to the  
7 qualifications, functions, or duties of a licensed registered nurse, in that on or about  
8 January 2, 2002, Respondent was convicted by the court on her plea of guilty of violation of  
9 Health and Safety Code section 11173(a)(1) (Attempt to Procure Prescription for Controlled  
10 Substance by Fraud, Deceit, Misrepresentation or Subterfuge), a misdemeanor, in the San Diego  
11 County Superior Court, Case No. M-85705, in the case entitled *The People of the State of*  
12 *California v. Cynthia Englehardt, aka Cynthia Elaine Englehart.*

13 a. The circumstances surrounding the arrest are that on or about  
14 January 20, 2001, Respondent went to the Scripps Hospital emergency room to be treated for a  
15 hand injury. Respondent received a prescription for 30 Vicodin tablets. Respondent changed the  
16 quantity of pills from 30 to 80 and presented the altered prescription to a Vons pharmacy. The  
17 pharmacy clerk noticed the altered quantity and contacted the prescribing doctor and faxed the  
18 prescribing doctor the prescription. The prescribing doctor confirmed the quantity of pills had  
19 been altered and the police were called. Respondent admitted to San Diego Police Department  
20 arresting officers that she had altered the prescription.

21 b. As a result of the above conviction, Respondent received three years  
22 summary probation and was ordered to pay a \$485 in fees and fines.

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